

REMARKS

Claims 1-23 are currently pending in the application. Claims 1 and 18 - 23 are currently amended. In light of the present amendments and remarks, Applicants respectfully submit that all pending claims are patentably distinct and are in condition for allowance. Reconsideration and allowance of the claims are respectfully requested.

Claim Rejections under 35 U.S.C. §101 and 35 U.S.C. §112 second paragraph

Claims 18 and 19 are rejected under 35 U.S.C. §101 and 35 U.S.C. §112, second paragraph, because the Examiner asserted that the claimed invention is directed to non-statutory subject matter and is indefinite by claiming suppliers, distributors, and data rather than structural elements. Applicants respectfully submit that claims 18 and 19 are currently amended to recite related structural elements and are directed to statutory subject matter under 35 U.S.C. §101. Reconsideration is respectfully requested.

Claims 21-23 are rejected under 35 U.S.C. §101 and 35 U.S.C. §112, second paragraph, because the Examiner asserted that the claimed invention is directed to software which lacks tangible embodiments in computer readable medium executed by a computer to perform the claimed function. Applicants respectfully submit that claims 21-23 are currently amended to include tangible embodiments in a computer readable medium. Reconsideration is respectfully requested.

Claim Rejections under 35 U.S.C. § 103

Claims 1-5, 7, 8, 18, 20 and 23 are rejected under 35 U.S.C. §103(a), as being unpatentable over Applicants' Admissions.

Claim 1, which is representative in-part of the other rejected claims recites:

1. A method for cash payment for goods or services in a mobile commerce system, comprising:
 - establishing a distributor's account in a mobile commerce system wherein said mobile commerce system includes a supplier's account;
 - paying cash for said goods or services from a customer to said distributor;
 - communicating a request for said goods or services from said distributor to a supplier using a communication device in said mobile commerce system;

authenticating said distributor by said mobile commerce system;
verifying said distributor's funds by said mobile commerce system;
transferring value for said goods or services from said distributor's account
to said supplier's account; and
transferring access to said goods or services to said customer.

The Examiner asserted that Applicant's statements in the Background of the Invention, were an admission that the claimed step of "paying value for said goods or services from a customer to said distributor" are in the prior art. Particularly, the Examiner indicated that the following description in the Background admits that this claimed step is in the prior art:

"A customer who wishes to perform a traditional transaction using electronic channels of commerce such as purchasing products or services over the internet or a mobile telephone, must typically possess a payment instrument (i.e., a credit card or debit card) suitable for presentation and verification **in the traditional channel[.]**" Specification, p 2. ll. 5-9, emphasis added.

Applicants deny that this or any other portion of the specification is an admission of any sort. Contrary to the Examiner's assertion, the recited typical possession of a payment instrument by a customer to perform a traditional electronic transaction, does not teach or suggest "paying value for said goods or services from a customer to **said distributor**" wherein said distributor is not in the traditional channel of commerce but has established a (non-traditional) distributor's account in a mobile commerce system. Since Applicants' specification does not admit that anything in the prior art teaches or suggests paying value for goods or services from a customer to a distributor having a distributor's account in a mobile commerce system, as particularly claimed, the Examiner has not made a *prima facie* case of obviousness under 35 U.S.C. §103.

Similarly, the Examiner asserted that Applicant's statements in paragraph [0006] (specification p 2., ll. 11 – 20) of the specification were an admission that the claimed step of "communicating a request for said goods or services from said distributor to a supplier using a communication device in said mobile commerce system" is in the prior art. Applicants deny that the specification contains any such admission. The traditional type of transaction described in paragraph [0006] of the specification, wherein the customer provides a payment instrument such as a bank account or payment instrument does not teach or suggest the claimed invention

wherein the customer pays cash to a distributor through the recited mechanism of a mobile commerce system as claimed, and thereby avoids the infrastructural cost associated with account verification and/or credit verification.

While individual elements of Applicants' claims may be described as portions of traditional electronic commerce systems, Applicants submit that nothing in the prior art teaches or suggests combining each and every element of independent claims 1, 18 or 20 in the manner as particularly recited. The inventive combination as claimed solves the problems of the prior art by eliminating costly steps of verifying customer credit and or requiring a customer to maintain any accounts. Applicants respectfully submit that the Examiner has improperly combined piecemeal elements of traditional e-commerce systems which are described in the Applicants' Background of the Invention by using improper hindsight in view of Applicants' disclosure. Since nothing in Applicants' specification admits that each and every element of any of Applicants' claims as presented in the claims is in the prior art, Applicants respectfully submit that the rejections of claims 1-5, 7, and 8 are improper and should be withdrawn.

Claim 18 as currently amended recites:

18. A mobile commerce system comprising:
 - a mobile communication network;
 - a supplier having mobile communication capability over said mobile communication network;
 - a supplier's account addressable over said mobile communication network;
 - at least one distributor having mobile communication capability over said mobile communication network;
 - a distributor's account addressable over said mobile communication network;
 - means for authenticating said distributor by said supplier over said mobile communication network;
 - means for verifying funds in said distributor's account by said supplier over said mobile communication network; and
 - means for transferring value from said supplier to a customer in response to a request received by said supplier from said distributor over said mobile communication network.

The Examiner rejected claim 18 as being overly broad in light of Applicants' admissions. Applicants respectfully submit that claim 18 as currently amended is not overly broad in light of Applicants' application because Applicants' application does not teach or suggest that anything

heretofore known includes each and every element of claim 18. Specifically, nothing in Applicants' Background teaches "means for authenticating said distributor by said supplier over said mobile communication network; means for verifying funds in said distributor's account by said supplier over said mobile communication network; and means for transferring value from said supplier to a customer in response to a request received by said supplier from said distributor over said mobile communication network." Applicants respectfully submit that the rejections of claim 18 has been overcome in light of the arguments set forth above and the present amendment. Applicants note that the current amendments were made to overcome rejections under 35 U.S.C. §101 and §112. Applicants do not admit by this amendment that the rejections under 35 U.S.C. §103 were proper because, contrary to the Examiner's characterization, Applicants' specification does not teach or suggest each element of a mobile transaction as particularly claimed in original claim 18. Reconsideration is respectfully requested.

The Examiner rejected claims 20 and 23 over Applicant's admissions. Claim 20 as currently amended recites:

20. A computer readable medium executable by a computer to perform cash based purchasing on a mobile commerce network comprising:
a mobile payments platform including a mobile stored value module; and
a service delivery platform configured for integration with said mobile payments platform.

Applicants respectfully submit that nothing described in the Background of the present application teaches or suggests a computer readable medium executable by a computer to perform cash based purchasing on a mobile commerce network. Applicants respectfully submit that the rejections of claim 20 has been overcome in light of the arguments set forth above and the current amendment. Applicants note that the current amendments were made to overcome rejections under 35 U.S.C. §101 and §112. Applicants do not admit by this amendment that the rejections under 35 U.S.C. §103 were proper. Reconsideration is respectfully requested.

Claims 6, 9 and 10 were rejected under 35 U.S.C. §103(a) as being unpatentable over Applicants' Admissions in view of U.S. Patent No. 6,686,838 to Rezvani (hereinafter "Rezvani"). Applicants deny any such admissions. Rezvani describes an automatic registration

system having monitoring modules that communicate with remote cites and devices which may interface with the monitoring modules. An example of Rezvani's system provides direct activation of a cellular phone by a cellular provider. Applicants respectfully submit that the rejection of claims 6, 9 and 10 is improper because nothing in Rezvani alone or when combined with traditional systems described in the background of Applicants' application, teaches or suggest each and every element of the claims for the reasons stated above with reference to Claim 1. Reconsideration is respectfully requested.

Claims 11 and 12 are rejected under 35 U.S.C. §103(a) as being unpatentable over Applicants' Admissions in view of ON1 (Official Notice regarding old and well known in the arts). Claims 13, 14, 19, 21 and 22 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Applicants' Admissions in view of ON2 (Official Notice regarding old and well know in the arts). Claims 15-17 are rejected under 35 U.S.C. §103(a) as being unpatentable over Applicants' Admissions in view of ON3 (Official Notice regarding old and well-known in the arts). Applicants deny any such admissions. Applicants respectfully submit that these rejections are improper for the reasons stated above and because no combination of elements that are old and well known in the art when combined with Applicants' description of traditional systems teaches or suggest each and every element of claims 11-17, 19, 21, or 22. Reconsideration is respectfully requested. In misconstruing Applicants' Background as "admissions" and combining that with "Official Notice", the Examiner is improperly rejecting Applicants' claims without any citation of prior art. Such a rejection is improper.

CONCLUSION

In view of the remarks set forth above, it is respectfully submitted that this application is in condition for allowance. Accordingly, allowance is requested.

Authorization is hereby given to charge deposit account 50-2896 in connection with any fees or extension of time or any other fee that may be necessary to permit entry of this response.

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Respectfully submitted,

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